

VIRGINIA CODE COMMISSION
General Assembly Building, 6th Floor
Speaker's Conference Room
Richmond, Virginia 23219

Wednesday, July 27, 2005 - 10:00 a.m.

MEMBERS PRESENT: William C. Mims, Chairman; R. Steven Landes, Vice Chairman; Robert L. Calhoun; Frank S. Ferguson, Diane M. Strickland; Thomas M. Moncure, Jr.; E.M. Miller, Jr.

MEMBERS ABSENT: John S. Edwards, Robert Hurt, S. Bernard Goodwyn

STAFF PRESENT: John Garka, Jeff Sharp, Mike Flaherty, Suzan Bulbulkaya, Patricia Davis, Ken Patterson, Mary Spain, Alan Wambold, Jane Chaffin

OTHERS PRESENT: Ellen Gillespie, West; Leigh Trippe, LexisNexis; Heather Hayes, LexisNexis; Brian Cole, LexisNexis; Bill Wilson, Division of Legislative Automated Systems; Barbara Klotz, Department of Motor Vehicles; Marc Copeland, Department of Motor Vehicles; Doug Saunders, Department of Agriculture and Consumer Services (VDACS); Perida Giles, VDACS

CALL TO ORDER

Chairman Mims called the meeting to order at 10:20 a.m. Approval of the minutes was deferred until the arrival of a quorum. Senator Mims proceeded with agenda item 3, Virginia Administrative Code Price Increase Request.

VIRGINIA ADMINISTRATIVE CODE PRICE INCREASE REQUEST

Mr. Miller stated that the Commission reviewed West's request for a 10% increase in the print version of the Administrative Code at its June meeting. The Commission had some questions about the Producer Price Index (PPI) used to base such requests. Mr. Miller invited John Garka to speak to the members on this issue. John Garka explained that the PPI is the index that measures the average change over time in the selling prices received by domestic producers of goods and services. As allowed by the contract between the Commission and West, West based its price increase request on the PPI for Book Publishers. The contract provides that the request must be made in May of each year for the Commission's consideration. Mr. Garka explained that only a preliminary PPI index number was available in May and West's request for a 10% increase was based on the preliminary index number for January 2005. The monthly PPI index number is subject to revision for four months after original publication. In July, the final January 2005 PPI index number was issued indicating an increase of 9.4% between January 2004 and January 2005.

Mr. Miller referred to the handout showing the Virginia Administrative Code pricing history and commented that the increases have been relatively modest for law publishing. Mr. Miller stated that he supports giving West the requested 10% increase, which is reflected in the following table:

CURRENT PRICE STATE	10% INCREASE STATE	CURRENT PRICE PUBLIC	10% INCREASE PUBLIC
\$158.30	\$174.13	\$260.10	\$286.11
\$220.45	\$242.49	\$378.85	\$416.73
\$20.38	\$22.41	\$23.71	\$26.08
\$24.93	\$27.42	\$29.36	\$32.29
\$39.55	\$43.50	\$67.91	\$74.70
\$10.24	\$11.26	\$11.96	\$13.15

1 Mr. Miller made a motion to approve the 10% increase requested by West, and
2 further moved to change the contract date for annual price increase requests
3 from May to July. The Chairman stated that a formal vote would be taken upon
4 arrival of a quorum.

5 **CONVERTING POPULATION BRACKETS TO NAMED LOCALITIES**

6 Jeff Sharp noted the following issues that need to be considered relating to the
7 Commission's decision to convert references to population brackets throughout
8 the Code of Virginia to named localities:

9 Issue 1 – Should reasonable population brackets be left unchanged? Mr. Sharp
10 recommended that population brackets be retained when it is not intended to
11 single out any particular locality and to convert to named localities when the
12 population brackets are clearly intended to single-out a specific locality.

13 Issue 2 - Should population brackets be replaced only with the originally intended
14 localities, or should they also be replaced with any locality that subsequently
15 grew into the population bracket? Staff recommended including localities that
16 have grown into a bracket, which is consistent with the current state of the law.
17 Mr. Sharp pointed out that some localities may not know that they have grown
18 into a particular bracket and suggested that county and city attorneys be notified
19 of the legislation once it is prefiled to give them an opportunity to comment or
20 request removal from the bill.

21 Issue 3 - Should locality descriptions other than population brackets also be
22 replaced with named localities? Mr. Sharp stated that the same rationale for
23 replacing population brackets (see Issue 1) also exists for replacing other types
24 of locality descriptions.

25 Issue 4 - Should a savings clause be included with the bill that will protect any
26 locality that validly exercised authority under the provisions of any of the
27 amended sections, but has been inadvertently omitted from the list of named
28 localities. Staff recommendation is to include a savings clause to ease some of
29 the concerns that localities will likely have with this process.

30 The consensus of the Commission was to accept Mr. Sharp's recommendations
31 and for staff to proceed accordingly.

APPROVAL OF MINUTES AND ADMINISTRATIVE CODE PRICE INCREASE

At this time, the Chairman noted that a quorum was present. The Commission returned to agenda item 2 to approve the minutes from the last meeting and agenda item 3 to approve the Virginia Administrative Code price increase.

Delegate Landes made a motion, seconded by Senator Calhoun, to approve the minutes of the June 15, 2005, meeting as written. The motion was approved.

Mr. Miller made a motion, seconded by Judge Strickland, to approve the request by West to increase the price charged for the print version of the Virginia Administrative Code by 10%, and he further moved to change the contract date for annual price increase requests from May to July. The motion was approved

TITLE 3.1 RECODIFICATION

Mike Flaherty explained that the Commission had noted several concerns with the Title 3.1 recodification at the last meeting and stated that the concerns in Chapters 33 (Milk Commission) and 53 (Milk, Milk Products and Dairies) will be addressed at today's meeting. In addition, several articles that are considered obsolete are recommended for repeal.

Chapter 33, Milk Commission

Mr. Flaherty stated that the workgroup revisited the conversion of the term "grade" to "class" and concluded that "grade" still has value and should be reinstated. "Class" is predominately used with establishing prices. Also, staff has classified penalties, applying misdemeanors that most closely approximate the penalty described.

Chapter 53, Milk, Milk Products and Dairies

Staff has gone through Chapter 53 and moved general provisions that apply to the entire chapter into Article 1, In General. The Commission asked staff to expand the drafting notes under those sections that were moved to explain that the sections are now included in the general provisions article.

Senator Calhoun expressed concern that most people would not be familiar with the Babcock method referred to in Article 4. Staff will work with agency to define the term.

Delegate Landes pointed out that the phrase "shall pray" is used in § 3.1-562.9 on page 18 line 19 and asked that staff suggest more up-to-date language.

Certified Hatchery Products; Quality Marks for Eggs

Article 6 (§ 3.1-771 et seq.) of Chapter 26, which addresses certified hatchery products, and Article 9 (§ 3.1-796.1 et seq.) of Chapter 26, have been determined obsolete and are suggested for repeal. Commission members posed no objection to this recommendation.

1 Chapter 57, Slaughterhouses, Meats and Dressed Poultry

2 During its review of Chapter 57, the Commission asked staff to make several
3 technical changes as follows: strike the obsolete term "city sergeant" throughout,
4 check whether the notice provisions are consistent with the notice provisions
5 reviewed by the Commission in other chapters, update the term "is prayed for" in
6 § 3.1-884.29 relating to seizure and condemnation, change "court of record" to
7 "circuit court" throughout the entire title, and change "invoke the aid of an
8 appropriate court of record" to "request the circuit court" on page 31, line 20
9 (§ 3.1-884.32).

10 Chapter 58, Vinegar

11 Mr. Miller asked why it is necessary to have statutory provisions relating to
12 vinegar. The agency representative explained that the law was put on the books
13 years ago to protect the interests of the apple industry. The agency
14 representative indicated that he did not believe that VDACS would oppose the
15 repeal of the chapter as long as the industry is not opposed. The Commission
16 requested the assistance of the Farm Bureau to find out from the apple (cider
17 vinegar) and wine (grape vinegar) industries if they believe repealing the chapter
18 would be problematic. It was noted that the acidity provisions were believed to be
19 covered by federal law.

20 Work Plan

21 Mr. Miller asked staff whether the recodification would be completed in time to
22 draft legislation for the 2006 General Assembly session or if another year would
23 be needed. Sue Bulbulkaya referred to the proposed outline to show the amount
24 of material that is left to cover. Most of Subtitle 1 and all of Subtitle 2 have been
25 completed and several chapters of Subtitle 3 were completed today. Chapter 52
26 needs to be revisited and Subtitle 5 (Animals), which is 100 pages minus
27 amendments and drafting notes, remains. To do a thorough job, staff feels that
28 an extra year will be needed to complete the title revision.

29 **PROPOSED CODE OF VIRGINIA TITLE REORGANIZATION STRUCTURE**

30 Ken Patterson presented the revised proposed Code of Virginia title
31 reorganization structure stating that the suggestions from the June meeting had
32 been incorporated. Mr. Patterson reminded the members that the plan is to
33 eliminate the division numbers but to leave the categories. Today, Mr. Patterson
34 is looking for the Commission's general approval of the scheme as presented.
35 Title number assignments are planned for proposal in the fall.

36 The Commission discussed eliminating the current "Division 4" (Crimes) in the
37 proposed title reorganization by moving Titles 18.2 (Crimes and Offenses
38 Generally) and 48 (Nuisances) into the group of titles on Jurisprudence ("Division
39 10"), so that they will appear immediately adjacent to Criminal Procedure (Title
40 19.2).

1 The Commission reiterated its consensus that the number of titles in the Code,
2 as part of the reorganization and renumbering project, should be substantially
3 reduced. The following current titles were specifically mentioned as candidates
4 for merger with other titles:

- 5 13.1 Corporations (combine with Partnerships)
- 6 21 Drainage, Soil Conservation, Etc. (add to Conservation)
- 7 26 Fiduciaries (add to Decedents' Estates)
- 8 27 Fire Protection (add to Military & Emergency Laws)
- 9 28.2 Fisheries and Habitat of the Tidal Waters (add to Game, Inland
10 Fisheries and Boating)
- 11 34 Homestead and Other Exemptions (add to Property)
- 12 41.1 Land Office (add to Property)
- 13 43 Mechanics' and Certain Other Liens (add to Property)
- 14 44 Military and Emergency Laws (add to Public Safety)
- 15 47.1 Notaries (combine with Oaths, Affirmations and Bonds)
- 16 48 Nuisances (add to Crimes)
- 17 49 Oaths, Affirmations and Bonds (combine with Notaries)
- 18 50 Partnerships (combine with Corporations)
- 19 61.1 Warehouses (add to Agriculture)

20 **2006 LEGISLATION DRAFTING ISSUES PERTAINING TO THE**
21 **REORGANIZATION OF THE CODE OF VIRGINIA**

22 Patricia Davis advised the members that because of the global changes to be
23 made to the Code of Virginia as part of the reorganization the plan is not to
24 include such changes in legislative drafts in 2006.

25 **PROPOSED REORGANIZATION OF INDIVIDUAL TITLES**

26 Staff submitted proposals for renumbering and reorganizing Titles 1, 5.1, 8.1A
27 through 8.11, 24.2, 33.1, 37.2, and 46.2.

28 The Commission approved the proposals for Titles 1, 8.1A through 8.11, 24.2,
29 and 37.2. The proposed changes to the transportation titles (current 5.1, 33.1,
30 46.2, and parts of 62.1) were discussed. Among members' suggestions were
31 moving the powers of local government provisions to the local government title
32 and moving motor vehicle violations and habitual offender sections to the criminal
33 law title. Judge Strickland asked that the Commission explore further the issue of
34 moving the motor vehicle violations and habitual offenders sections to the
35 criminal law title at a future meeting. Additionally, Senator Calhoun made a
36 motion, seconded by Mr. Miller, to no longer codify the legislation creating special
37 license plates. Representatives of the Department of Motor Vehicles expressed
38 opposition to this motion; however, the motion was approved.

39 Alan Wambold presented other issues relating to the transportation/highways
40 title. Issues that need to be addressed through separate legislation include
41 repealing and cleaning up several provisions as noted below.

1 The need to repeal the Richmond-Petersburg Turnpike Authority since it is
2 obsolete was addressed. Mr. Ferguson made a motion, seconded by Senator
3 Calhoun, to repeal Article 8 of Chapter 3 of Title 33.1 (Richmond-Petersburg
4 Turnpike Authority) since the Richmond-Petersburg Turnpike no longer exists.
5 The motion was approved.

6 Dr. Wambold stated that the Richmond Metropolitan Authority (Article 9 of
7 Chapter 3 of Title 33.1) was established in the 1950s about the same time as
8 Title 33 was repealed and Title 33.1 was created. Title 33.1 contains certain
9 cross references to the authority; however, it is not clear why these references
10 are part of the title. Dr. Wambold stated that if an affirmative statement is needed
11 to say that the recodification of Title 33 did not intend to repeal the Richmond
12 Metropolitan Authority, then a transitional provision could be incorporated. Mr.
13 Miller suggested preparing a separate bill to address this issue.

14 The Commission approved staff's other suggestions to repeal Chapter 8,
15 Adjustment of Claims Resulting from Contracts Entered into Prior to July 1, 1976,
16 for Construction of State Highways; move the Department of Rail and Public
17 Transportation into the new transportation title; move Chapter 12, Centralized
18 Fleet Management, to General Services; and move the Virginia Highway
19 Corporation Act of 1988 and the Public Transportation Act of 1955 from Title 56
20 into the highway title.

21 The Commission discussed the placement of Foreign Trade Zones. Dr. Wambold
22 stated that he would get more information on Foreign Trade Zones and make a
23 recommendation.

24 Mr. Miller suggested placing the titles that have been reviewed on the website
25 with notation that they are under active consideration.

26 **OTHER BUSINESS AND PUBLIC COMMENT**

27 The next meeting is scheduled on Wednesday, August 17, 2005.

28 No one from came forward during the designated public comment period.

29 There being no other business to come before the Commission, the meeting
30 adjourned at 2:45 p.m.